

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RA'SHAUN MULLER,

Plaintiff,

-v.-

9:02-CV-1556
(LEK/GJD)

ALTON HOLMES, Housekeeping Supervisor,
Medical Unit; CATHERINE DUNCAN,
Housekeeping Supervisor, Medical Unit,

Defendants.

ORDER

Currently before the Court is Plaintiff's Motion to remove counsel. Dkt. No. 86. The docket reflects that Plaintiff requested appointment of trial counsel via telephone conference on February 7, 2007. See Minute Entry for Telephone Conference of 2/7/07. After evaluating Plaintiff's request and finding good cause, Magistrate Judge Gustave J. DiBianco appointed Michael Cunningham, Esq. to be pro bono standby trial counsel for Plaintiff, pursuant to Local Rule 83.3(f). Order (Dkt. No. 66).

Local Rule 83.3(f) notes that "[i]n the Court's discretion, stand-by counsel may be appointed to act in an advisory capacity." N.D.N.Y. R. 83.3(f). The factors to be used in determining whether appointment is appropriate include the nature and complexity of the action, the presence of conflicting testimony, requiring presentation of evidence and cross-examination, and "the degree to which the interests of justice shall be served by appointment of an attorney, including the benefit the Court shall derive from the assistance of an appointed attorney." N.D.N.Y. R. 83.3(c). These factors do not support removing Mr. Cunningham as pro bono standby trial counsel for Plaintiff.

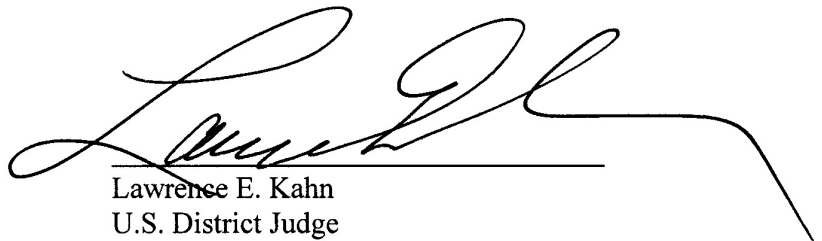
For the foregoing reason, it is hereby

ORDERED, that Plaintiff's Motion to remove counsel (Dkt. No. 86) is **DENIED**; and it is further

ORDERED, that the Clerk serve a copy of this Order on the parties.

IT IS SO ORDERED.

DATED: January 14, 2008
Albany, New York



Lawrence E. Kahn
U.S. District Judge